

# Chapter 352-11 WAC

## SEPA PROCEDURES

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

352-11-310 Threshold determination process—Additional considerations. [Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-310, filed 10/3/84.] Repealed by WSR 07-03-121, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 79A.05 RCW.  
 352-11-508 Notice of environmental documents. [Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-508, filed 10/3/84.] Repealed by WSR 07-03-121, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 79A.05 RCW.  
 352-11-615 Coordination on combined agency—Federal action. [Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-615, filed 10/3/84.] Repealed by WSR 07-03-121, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 79A.05 RCW.  
 352-11-800 Threshold levels adopted by counties/cities. [Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-800, filed 10/3/84.] Repealed by WSR 07-03-121, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 79A.05 RCW.  
 352-11-905 Responsibilities of individuals and work units within the agency. [Statutory Authority: RCW 43.21C.120. WSR 96-01-029, § 352-11-905, filed 12/11/95, effective 1/11/96. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-905, filed 10/3/84.] Repealed by WSR 07-03-121, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 79A.05 RCW.  
 352-11-908 Critical areas. [Statutory Authority: RCW 43.21C.120. WSR 96-01-029, § 352-11-908, filed 12/11/95, effective 1/11/96. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-908, filed 10/3/84.] Repealed by WSR 07-03-121, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 79A.05 RCW.

**WAC 352-11-010 Authority.** These rules are promulgated under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC (SEPA rules).

[Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-010, filed 10/3/84. Formerly chapter 352-10 WAC.]

**WAC 352-11-020 Adoption by reference.** The Washington state parks and recreation commission adopts the fol-

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lowing sections or subsections of chapter 197-11 WAC by reference.

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[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-020, filed 1/22/07, effective 2/22/07. Statutory Authority: RCW 43.21C.120. WSR 96-01-029, § 352-11-020, filed 12/11/95, effective 1/11/96. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-020, filed 10/3/84.]

**WAC 352-11-030 Purpose.** This chapter implements the statewide rules in chapter 197-11 WAC as they apply to the Washington state parks and recreation commission.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-030, filed 10/3/84.]

**WAC 352-11-040 Additional definitions.** In addition to the definitions contained in WAC 197-11-700 through 197-11-799, the following terms shall have the listed meanings:

(1) "Agency" means the entire staff and appointed commission members constituting the Washington state parks and recreation commission.

(2) "Authorized public use" as used in WAC 197-11-800 Part nine - Categorical exemptions means that a particular parcel of real property has been classified for public use, or has developed facilities subject to public use or has been specifically designated and classified for such public use. No "authorized public use" shall be construed to have occurred on parcels of real property being held for future use and development nor on portions of existing park lands remote

from existing public use facilities, including developed trail systems.

(3) "Commission" means the Washington state parks and recreation commission.

(4) "Decision maker" means any agency staff authorized to take an action as provided through agency delegation of authority.

(5) "Demolition of any structure or facility with recognized historical significance" as used in WAC 197-11-800 Part nine - Categorical exemptions means the destruction of any character-defining feature or other change which would degrade or destroy the significance of that structure or facility.

(6) "Director" means the director of the Washington state parks and recreation commission.

(7) "Existing roads in nonresidential areas" as used in WAC 197-11-800 Part nine - Categorical exemptions means any transportation corridor through the land affected, not formally zoned or designated for residential use, where such use does not interfere with normal public use of the property.

(8) "Grazing lease" as used in WAC 197-11-800 Part nine - Categorical exemptions shall include lands grazed through authorization prior to acquisition by the agency, regardless of formal "leasing."

[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-040, filed 1/22/07, effective 2/22/07. Statutory Authority: RCW 43.21C.120. WSR 96-01-029, § 352-11-040, filed 12/11/95, effective 1/11/96. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-040, filed 10/3/84.]

**WAC 352-11-055 Timing of the SEPA process. (1)**

The SEPA process shall be integrated with agency activities following and according to established agency SEPA procedures at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

(2) Additional timing considerations.

(a) Agency staff receiving an application will forward it to the responsible official who will determine whether the proposal is an "action" and, if so, whether another agency is the lead agency for the proposal. If not, the responsible official will determine if the action is "categorically exempt" from SEPA. If the proposal is an "action" and is not exempt, the responsible official will ask the applicant to complete an environmental checklist. A new checklist is not needed if the responsible official and applicant agree that an EIS is required, SEPA compliance has been completed, SEPA compliance has been initiated by another agency, or a complete checklist is included with the application.

(b) Notwithstanding the guidance and requirements of WAC 197-11-922 through 197-11-948, if the agency is presented with an application to undertake a project generally falling under the jurisdiction and/or environmental expertise of another state or local agency, staff will direct the applicant to initiate SEPA with the appropriate agency before it considers the action being requested by the applicant.

(c) Agency staff and applicants may hold preliminary discussions or exploration of ideas and options prior to commencing formal environmental review, under provisions of this chapter and chapter 197-11 WAC, subject to RCW 42.36.060.

(3) All commission actions require SEPA.

[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-055, filed 1/22/07, effective 2/22/07. Statutory Authority: RCW 43.21C.120. WSR 96-01-029, § 352-11-055, filed 12/11/95, effective 1/11/96. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-055, filed 10/3/84.]

## PRODUCTION

**WAC 352-11-330 Threshold determination process—Additional considerations.** (1) Applicants are required to fully complete an environmental checklist to aid the agency in rendering a threshold determination.

(2)(a) To make the final determination, the responsible official will consider: All comments received, mitigation measures proposed, and suggested changes to the project.

(b) If there are substantial changes to the project during the SEPA process, the final determination must undergo similar public notice as the initial determination. Projects without changes or only minor changes do not require public notice of a final determination.

[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-330, filed 1/22/07, effective 2/22/07.]

**WAC 352-11-350 Mitigated DNS.** (1) An applicant may ask the agency whether issuance of a determination of significance (DS) is likely for a proposal. This request for early notice must:

(a) Be written;

(b) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the commission is lead agency; and

(c) Precede the agency's actual threshold determination for the proposal.

(2) The responsible official can suggest that the applicant may change or clarify the proposal to mitigate the impacts indicated and revise the environmental checklist as necessary to reflect the changes or clarifications.

(3) The agency shall not continue with the threshold determination until after receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the agency will make its threshold determination based on the changed or clarified proposal.

(a) If the agency's response to the request for early notice indicated specific mitigation measures that would remove all probable significant adverse environmental impacts, and the applicant changes or clarifies the proposal to include all of those specific mitigation measures, the agency shall issue a determination of nonsignificance and circulate the DNS for comments as directed in WAC 197-11-340(2).

(b) If the agency indicated general or specific areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the agency shall determine if the changed or clarified proposal may have a probable significant environmental impact, issuing a DNS or DS as appropriate.

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(5) The agency may specify mitigation measures that would allow it to issue a DNS without a request for early notice from an applicant. If it does so, and the applicant changes or clarifies the proposal to include those measures, the agency shall issue a DNS and circulate it for review under WAC 197-11-350(2).

(6) When an applicant changes or clarifies the proposal, the clarifications or changes may be included in written attachments to the documents already submitted. If the environmental checklist and supporting documents would be difficult to read and/or understand because of the need to read them in conjunction with the attachment(s), the agency may require the applicant to submit a new checklist.

(7) The agency's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification of or changes to a proposal, as opposed to a written request for early notice, shall not bind the agency to consider the clarifications or changes in its threshold determination.

(8) When an applicant submits a changed or clarified proposal pursuant to this section, it shall be considered part of the applicant's application for a permit or other approval for all purposes, including enforcement of the permit or other approval. Unless the agency's decision expressly states otherwise, when a mitigated DNS is issued for a proposal, any decision approving the proposal shall be based on the proposal as changed or clarified pursuant to this section.

[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-350, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-350, filed 10/3/84.]

**WAC 352-11-420 EIS preparation.** For draft and final EISs and supplemental environmental impact statements (SEISs):

(1) Preparation of the EIS is the responsibility of the agency, by or under the direction of its responsible official, as specified by the agency's procedures. No matter who participates in the preparation of the EIS, it is the EIS of the agency. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with this chapter and chapter 197-11 WAC.

(2) The agency may have an EIS prepared by agency staff, an applicant or its agent, or by an outside consultant retained by either an applicant or the agency. The agency shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

(3) If a person other than the agency is preparing the EIS, the agency shall:

(a) Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency and the public that is needed by the person;

(b) Assist in obtaining any information on file with another agency that is needed by the person preparing the EIS;

(c) Allow any party preparing an EIS access to all public records of the agency that relate to the subject of the EIS, under RCW 42.17.250 through 42.17.340.

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(4) Normally, the agency will prepare an EIS for its own proposals.

(5) For applicant proposals, the agency normally will require the applicant to prepare or help prepare the EIS at the applicant's expense, under provisions of this chapter and chapter 197-11 WAC.

(6) The agency may require an applicant to provide information that the agency does not possess, including specific investigations. The applicant is not required to supply information that is not required under this chapter and chapter 197-11 WAC.

[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-420, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-420, filed 10/3/84.]

**WAC 352-11-504 Availability and costs of environmental documents.** (1) SEPA documents required by these rules shall be retained by the agency at the SEPA public information center, and made available in accordance with RCW 42.17.250 through 42.17.340.

(2) The agency shall make copies of environmental documents available in accordance with RCW 42.17.250 through 42.17.340, charging only those costs allowed plus mailing costs. Allowable costs for environmental documents may be indicated in the documents and made payable to the agency. However, no charge shall be levied for circulation of documents to other agencies as required by this chapter. The agency will provide one complimentary copy of each environmental document to each public interest organization requesting such.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-504, filed 10/3/84.]

**WAC 352-11-510 Public notice requirements.** (1) The agency shall give public notice when issuing a DNS under WAC 197-11-340(2), a scoping notice under WAC 352-11-420, or a draft EIS under WAC 197-11-455.

(2) The agency shall use one or more of the following methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice requirements for the permit or approval required from the agency, other public notice(s) required by agencies with jurisdiction, public interest expressed in the proposal, and whether the proposal is a project or regulation:

(a) Notifying persons or groups who have expressed interest in the proposal, of the type of proposal, or proposals in the geographic area in which the proposal will be implemented if approved;

(b) Publication in a newspaper of general circulation in the area in which the proposal will be implemented;

(c) Posting the property for site-specific proposals;

(d) Notifying the news media;

(e) Placing notice in appropriate regional, neighborhood, ethnic, or trade journals;

(f) Hosting a public hearing on the proposal; or

(g) Other methods of notice expressly authorized by the department of ecology.

(3) The agency may require an applicant to perform the public notice requirement at the applicant's expense.

(1/22/07)

[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-510, filed 1/22/07, effective 2/22/07. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-510, filed 10/3/84.]

**WAC 352-11-665 Policies and procedures for conditioning or denying permits or other approvals.** (1)(a) The overriding policy of the Washington state parks and recreation commission is to avoid or mitigate adverse environmental impacts which may result from the agency's decisions.

(b) The agency shall ensure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations.

(2) Policies - Specific. Agency policies, plans, rules and regulations are rooted in the agency's legislation, stewardship policies and rules promulgated by the agency. The following may be used to fulfill the intent of SEPA and may be used to mitigate significant adverse environmental impacts of agency actions:

(a) Authorities provided to the agency through Title 79A RCW Public recreation lands;

(b) Any other approval authority which may be granted to the commission in the future;

(c) Rules promulgated under Title 352 WAC;

(d) Approved commission and administrative policies;

(e) Other state agencies' applicable habitat conservation plans;

(f) Acquisition, development and maintenance of scenic and recreational highways, and rest areas, including landscaping and signing (chapter 47.39 RCW).

(3) The agency may exercise substantive authority to mitigate the environmental impacts of a project, according to the limitations provided in WAC 197-11-660, by conditioning or denying that project based upon agency SEPA policies.

[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-665, filed 1/22/07, effective 2/22/07. Statutory Authority: RCW 43.21C.120. WSR 96-01-029, § 352-11-665, filed 12/11/95, effective 1/11/96. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-665, filed 10/3/84.]

**WAC 352-11-910 Designation of responsible official.**

(1) The authority of responsible official is delegated via the director, or designee, to staff.

(2) Depending upon the size and scope of the proposed action, the responsible official may be established at the level of director, deputy director, or assistant deputy director.

[Statutory Authority: Chapter 79A.05 RCW. WSR 07-03-121, § 352-11-910, filed 1/22/07, effective 2/22/07. Statutory Authority: RCW 43.21C.120. WSR 96-01-029, § 352-11-910, filed 12/11/95, effective 1/11/96. Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-910, filed 10/3/84.]

**WAC 352-11-950 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: Chapter 43.21C RCW. WSR 84-20-112 (Order 84), § 352-11-950, filed 10/3/84.]